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DEC 18 1965
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1965

~~No. 1028 Misc.~~ No. 2 Misc.

ARTHUR GJANCI

Petitioner

-v.-

UNITED STATES OF AMERICA

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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PETITION FOR WRIT OF CERTIORARI TO THE
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The petitioner, Arthur Gjanci, respectfully prays that a writ of certiorari issue to review the judgments of the United States Court of Appeals for the Second Circuit entered on October 29, 1965.

## Opinions Below

The opinion of the Court of Appeals, as yet unreported, is printed in the Joint Appendix to the petitions of co-defendants, James Marchetti and Frank Costello (Jt. App. 1a). The opinions in U. S. A. v. Piccioli, Docket No. 29521 in the Court of Appeals, and U. S. A. v. Grassia, Docket No. 29791 in the Court of Appeals, related cases, are also printed in the Joint Appendix (Jt. App. 16a-29a).

## Jurisdiction

The judgments of the Court of Appeals were entered on October 29, 1965. Petitioner's petition for rehearing was denied on November 26, 1965 (Pro. Ct. App. 123). The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

## Questions Presented

1. Should United States v. Kahriger, 345 U. S. 22 (1953), and Lewis v. United States, 348 U. S. 419 (1955), upholding the constitutionality of the wagering tax laws here involved, be reconsidered by this Court in the light of recent decisions?

2. Assuming, arguendo, the continued validity of cases upholding the constitutionality of the wagering tax laws, were the statutes applied and enforced against petitioner in an unconstitutional manner or so as to violate the proper standards for the enforcement of federal criminal law under this Court's supervisory powers?

3. Did the use, without proper objection at trial, of petitioner's self-incriminatory oral and written post-indictment statements deliberately elicited from him without warning as to his right to counsel vitiate petitioner's convictions?

## Constitutional and Statutory Provisions Involved

Petitioner maintains that the judgments of the court below, affirming his convictions for violations of the wagering tax laws and the federal conspiracy statute, violate his rights under the Fifth, Sixth and Tenth Amendments of the United States Constitution. The wagering tax laws, 26 U. S. C. §§ 4401, 4411 and 4412, and the constitutional provisions involved, together with general revenue laws relating to these cases, are set forth in the Joint Appendix to this petition (Jt. App. 29a).

Statement
and
Reasons for Granting the Writ

Petitioner faces a one-year prison sentence and a $2,500 fine for convictions by a jury presided over by Chief Judge Timbers of the United States District Court for the District of Connecticut upon two indictments charging willful violations of the wagering tax statutes and the federal conspiracy statute (Jt. App. 3a).

The case of petitioner Arthur Gianci involves questions identical or closely related to those raised in the petition for writ of certiorari of his co-defendant James Marchetti. Therefore, pursuant to Rule 23(5) of the Rules of the Supreme Court of the United States Arthur Gianci hereby adopts the STATEMENT AND REASONS FOR GRANTING THE WRIT contained in the petition of James Marchetti. Arthur Gianci also adopts the Joint Appendix of his co-defendants James Marchetti and Frank Costello.

## CONCLUSION

For these reasons, then, this Court should--and petitioner requests that it does--issue its writ of certiorari to review the judgments of the court below.

Respectfully submitted,

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December 16, 1965